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Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

ZOE HOLLIS individually and on behalf of all
others similarly situated

Plaintiff,

v.

R & R RESTAURANTS, INC dba SASSY'S,
an Oregon corporation; STACY MAYHOOD,
an individual; IAN HANNIGAN, an individual;
FRANK FAILLACE, an individual; and DOES
2 through 10, inclusive,

Defendants.

Case No.: 3:21-cv-00965-YY

I,

**DECLARATION OF FRANK
FAILLACE IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
CONDITIONAL CERTIFICATION
AND ISSUANCE OF NOTICE
PURSUANT TO FAIR LABOR
STANDARDS ACT, 29 U.S.C. §
216(b)**

Frank Faillace, do hereby swear, affirm, and attest as follows:

1. I am one of the defendants in the above-captioned matter. I am over the age of eighteen and I have personal knowledge of the facts set forth in this declaration and am competent to testify to them if called upon to do so. I respectfully submit this declaration in support of Defendants' Opposition to Plaintiff's Motion for Conditional Certification and Issuance of Notice Pursuant to Fair Labor Standards Act, 29 U.S.C. § 216(b).

2. I am one of several partial owners of R & R Restaurants, Inc. dba Sassy's ("Sassy's"). I have been a joint owner of Sassy's for all years relevant to Plaintiff Zoe Hollis's claims.

3. Sassy's is an iconic small business entertainment venue in Portland which is primarily operated by Stacy Mayhood, who had previously been a live performer herself.

4. Like other live performance venues, Sassy's business is based on food and drink sales. It features female dance performances as entertainment for its patrons. Sassy's enters into express independent contractor agreements with performers who successfully audition. Each performer brings a distinct and unique energy and talent to their show.

5. Under the independent contractor agreements with Sassy's, performers are compensated based on direct client contributions during live stage performances and fees charged for individual performances. Sassy's does not receive or retain any portion of the contributions or fees earned by performers.

6. Prior to performing, performers pay a nominal administrative sum that varies based on the timing of the shift. That sum covers the labor and logistical expenses required to schedule and manage the performances. Performers have complete freedom to determine their schedule, outfits, dance style, song choice, hair style, makeup and general aesthetic, just as any other stage performer would in other industries. A performer's personal skill and dedication has a direct and measurable impact on their compensation from patrons, which can be substantial.

8. Sassy's has no direct control over its performers, who individually control the means and manner of how they complete their contractual performance obligations. They are free to schedule performances as they wish, choose which individuals they perform for or not, drink alcohol while working, and many other things that are individual and unique to each performer.

9. I am also a joint owner of another small business in Portland called Dante's. Dante's is also a live performance venue. However, while Sassy's focuses on female dance

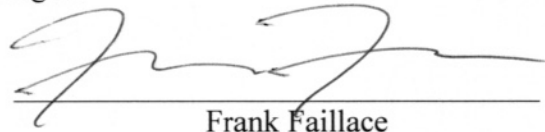
performances, Dante's hosts a broad range of shows, including live music, karaoke with a live band, and cabaret shows, which include many unique acts such as ribbon shows, fire dancing, DJs, circus acts, and burlesque.

10. Hollis periodically performed at Dante's burlesque show. Hollis's performances as Dante's were similar in nature and similar in compensation to their performances at Sassy's. In addition, just like every other live stage performer, Hollis performed as an independent contractor and their compensation was largely based on direct client contributions. Though their performance and form of compensation were similar at Dante's to Sassy's, Hollis has not alleged that they were incorrectly classified as a contractor for their performances at Dante's.

11. After Sassy's and fellow joint owners Stacy Mayhood and Ian Hannigan were served with the summons and complaint in this action, we became concerned that Hollis would also contest their contractor status as a Dante's performer, and took immediate steps to review the situation, their claims, and take any necessary subsequent remedial measures to confirm their contractor status.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 4, 2021, at Portland, Oregon.



Frank Faillace